



NATIONAL  
ASSOCIATION of  
REALTORS®

## Legal Affairs

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January 17, 2012

Federal Election Commission  
999 E. Street, N.W.  
Washington, DC 20463

Attn: Jeff S. Jordan, Supervisory Attorney  
Complaints Examination & Legal Administration

RE: MUR 6520

Dear Mr. Jordan:

This letter is in response to yours dated December 28, 2011 addressed to Sharon Royster, Registered Agent, National Association of Realtors® ("NAR"). I enclose a Statement of Designation of Counsel in which Dale A. Stinton, NAR Chief Executive Officer, designates me as counsel to the NAR in this matter. For your information Ms. Royster no longer serves as NAR's registered agent in the District of Columbia.

The Complainant asserts that in order to succeed in her business activities it is "imperative" for complainant to be "in the MLS system," and that she is required to be a Realtor® (a member of Berkshire County Board of Realtors® (Board") and NAR<sup>1</sup>) to join the local MLS system. (Complaint ¶¶2-3, p. 1). The complaint further alleges that NAR increased membership dues by \$40 per year in 2012, and that such "money would be allocated for the DIRECT support of candidates." (Complaint ¶4, p. 2). The complaint also alleges that the membership did not support this change but the "voting directors forced this initiative through." (Id.) Finally, the complaint asks whether "[B]y REQUIRING this dues money which will all go to lobbying and politics ...have the Realtors® violated any federal regulations?" (Complaint ¶8, p. 2).

NAR acknowledges that dues for Board and NAR membership were increased by \$40 beginning in 2012. NAR also acknowledges that it intends to use a portion of dues collected from members for calendar year 2012, including some or all of the \$40 increase, for lobbying and political activity. For several reasons described below, however, the complaint fails to



<sup>1</sup> NAR is an incorporated membership organization, incorporated under the General Not For Profit Corporation Act of Illinois and exempt from federal income tax pursuant to Section 501(c)(6) of the Internal Revenue Code. The Board is an incorporated membership organization exempt from federal income tax pursuant to Section 501(c)(6) of the Internal Revenue Code.

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allege that NAR has engaged in any conduct that violates the Federal Election Campaign Act ("Act"). Accordingly, I respectfully request that the complaint be dismissed.

First, the complaint fails to allege a violation of the Act because it refers only to *prospective* activity by NAR, rather than conduct that is occurring or that has already occurred. ("I understand that NAR will collect millions of dollars and can come into federal, state and local elections and will have the ability to pay for ads and other items that will influence the federal, state and local elections." Complaint, ¶7, emphasis added. ) Thus, by definition, no violation is alleged because the activity that Complainant suggests is or may violate the Act has not yet occurred.

Second, and perhaps more fundamentally, the Act does not prohibit NAR from engaging in the activities for which the complaint alleges NAR intends to use 2012 member dues payments (treasury monies) collected by the Board and "passed along" to NAR. The complaint alleges, for example, that NAR "will have the ability to pay for ads and other items that will influence the federal, state and local elections." (Complaint, ¶7). Simply put, the Act does not apply to NAR's use of dues/treasury monies in connection with the election of state and local candidates, and with respect to federal candidates NAR's use of such monies in support of candidates for federal office is permitted by *Citizens United v. Federal Election Commission*, 558 U.S. \_\_\_\_ (2010).

As described in the Affidavit of Timothy A. Ryan, Chief of Staff to NAR's Senior Vice President for Community and Political Affairs, enclosed herein, NAR recognizes and in all respects complies with the Act's limitations on use of treasury funds by a corporation in connection with federal elections. All lobbying and political activities for which NAR intends to use treasury monies, including those funds provided pursuant to the \$40 increase in member dues for 2012, will be those for which the use of NAR treasury funds is not prohibited by the Act. In particular, but in contradiction to Complainant's claim, the activities for which NAR plans to use 2012 dues money received by NAR will not, at any time, include direct or indirect contributions to federal candidates or their campaign committees, or any other federal political committees. See Ryan Affidavit ¶5. To the contrary, the activities for which NAR intends to use treasury funds include directly lobbying of members of Congress or state or local legislative bodies, or lobbying representatives of executive or administrative agencies of federal, state, or local governments, or communications to the general public regarding legislative and regulatory issues of concern to the Board, NAR, or their members. Such activities may also include political activities related to the election of candidates for local or state office, administrative support for the establishment, operation, and solicitation of contributions from NAR members to the Realtors® Political Action Committee, NAR's separate segregated fund which is registered with and reports to the Commission pursuant to the Act, communications to members of NAR regarding expressly identified candidates for local, state, federal office, or "independent expenditures" as defined in the Act, 2 U.S.C. §431(17), and permitted to be made by corporations pursuant to the opinion of the Supreme Court in *Citizens United v. FEC*, 558 U.S. \_\_\_\_ (2010).

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Year	Country	Population (millions)	Urban population (millions)	Urban population (%)	Population density (per sq km)	Urban population density (per sq km)	Population growth rate (%)	Urban population growth rate (%)	Population growth rate (per 1,000)	Urban population growth rate (per 1,000)
1950	United States	150.7	94.0	62.4	31.1	100.0	1.2	1.2	12.0	12.0
1955	United States	157.7	98.0	62.2	31.1	100.0	1.2	1.2	12.0	12.0
1960	United States	162.6	101.0	62.1	31.1	100.0	1.2	1.2	12.0	12.0
1965	United States	167.5	104.0	62.0	31.1	100.0	1.2	1.2	12.0	12.0
1970	United States	172.4	107.0	61.9	31.1	100.0	1.2	1.2	12.0	12.0
1975	United States	177.3	110.0	61.8	31.1	100.0	1.2	1.2	12.0	12.0
1980	United States	182.2	113.0	61.7	31.1	100.0	1.2	1.2	12.0	12.0
1985	United States	187.1	116.0	61.6	31.1	100.0	1.2	1.2	12.0	12.0
1990	United States	192.0	119.0	61.5	31.1	100.0	1.2	1.2	12.0	12.0
1995	United States	196.9	122.0	61.4	31.1	100.0	1.2	1.2	12.0	12.0
2000	United States	201.8	125.0	61.3	31.1	100.0	1.2	1.2	12.0	12.0
2005	United States	206.7	128.0	61.2	31.1	100.0	1.2	1.2	12.0	12.0
2010	United States	211.6	131.0	61.1	31.1	100.0	1.2	1.2	12.0	12.0
2015	United States	216.5	134.0	61.0	31.1	100.0	1.2	1.2	12.0	12.0
2020	United States	221.4	137.0	60.9	31.1	100.0	1.2	1.2	12.0	12.0
2025	United States	226.3	140.0	60.8	31.1	100.0	1.2	1.2	12.0	12.0
2030	United States	231.2	143.0	60.7	31.1	100.0	1.2	1.2	12.0	12.0
2035	United States	236.1	146.0	60.6	31.1	100.0	1.2	1.2	12.0	12.0
2040	United States	241.0	149.0	60.5	31.1	100.0	1.2	1.2	12.0	12.0
2045	United States	245.9	152.0	60.4	31.1	100.0	1.2	1.2	12.0	12.0
2050	United States	250.8	155.0	60.3	31.1	100.0	1.2	1.2	12.0	12.0
2055	United States	255.7	158.0	60.2	31.1	100.0	1.2	1.2	12.0	12.0
2060	United States	260.6	161.0	60.1	31.1	100.0	1.2	1.2	12.0	12.0
2065	United States	265.5	164.0	60.0	31.1	100.0	1.2	1.2	12.0	12.0
2070	United States	270.4	167.0	59.9	31.1	100.0	1.2	1.2	12.0	12.0
2075	United States	275.3	170.0	59.8	31.1	100.0	1.2	1.2	12.0	12.0
2080	United States	280.2	173.0	59.7	31.1	100.0	1.2	1.2	12.0	12.0
2085	United States	285.1	176.0	59.6	31.1	100.0	1.2	1.2	12.0	12.0
2090	United States	290.0	179.0	59.5	31.1	100.0	1.2	1.2	12.0	12.0
2095	United States	294.9	182.0	59.4	31.1	100.0	1.2	1.2	12.0	12.0
2100	United States	299.8	185.0	59.3	31.1	100.0	1.2	1.2	12.0	12.0

Paul W. Holmes

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FEDERAL ELECTION COMMISSION  
999 E Street, NW  
Washington, DC 20463

FEDERAL ELECTION  
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2012 JAN 23 PM 2:46  
OFFICE OF GENERAL  
COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL  
Please use **one** form for each Respondent/Entity/Treasurer  
FAX (202) 219-3923

**MUR #6520**

NAME OF COUNSEL: Ralph W. Holmen

FIRM: National Association of Realtors®

ADDRESS: 430 N. Michigan Ave., Chicago, IL 60611

TELEPHONE: OFFICE: 312/329 8375  
FAX: 312/329 8256

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Respondent/Agent -Signature

\_\_\_\_\_  
Title (Treasurer/Candidate/Owner)

NAMED RESPONDENT: National Association of Realtors®

MAILING ADDRESS: 430 N. Michigan Ave., Chicago, IL 60611  
(Please Print)

TELEPHONE: BUSINESS: 312/329 8200

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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